

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 783, L.D. 1115, Bill, "An Act Establishing Procedures for Notice of Proposed Zoning Changes"

Amend the bill in section 2 in subsection 9 in the 2nd line (page 1, line 37 in L.D.) by inserting after the following: "authority" the following: 'or the municipal officers' and in the 3rd line (page 1, line 38 in L.D.) by inserting after the following: "hearing" the following: 'as required by subsection 1'

Further amend the bill in section 2 in subsection 9 by striking out paragraph C and inserting in its place the following:

'C. For each parcel in and abutting the area to be rezoned, be mailed at least 14 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. A municipality shall maintain a list of names and addresses of those persons to whom a notice is mailed under this paragraph. A notice must be sent under this paragraph only if the rezoning is a change of use that permits industrial, commercial or retail development in a zone where such uses were previously prohibited or that prohibits all such uses in a zone where previously permitted. Notice under this paragraph is not required for any other type of proposed zoning ordinance, including overlay zoning ordinances or any type of zoning ordinances required under section 4343, subsection 1-B; and'

Further amend the bill in section 2 in subsection 9 by inserting at the end the following:

'Failure of an appellant to receive a notice sent by a municipality in accordance with paragraph C does not invalidate an ordinance or any provision of an ordinance; however, any

2 person entitled to receive a notice of a zone change under
3 paragraph C who does not receive such a notice may appeal the
4 decision of the municipality to adopt the zoning ordinance to the
5 Superior Court within 30 days after the adoption of the zoning
6 ordinance. The Superior Court may invalidate a zoning ordinance
7 or any provision of a zoning ordinance if the appellant
8 demonstrates that the appellant was entitled to receive a notice
9 under paragraph C, that the municipality failed to send the
10 notice as required, that the appellant had no knowledge of the
11 proposed zoning change and that the appellant was materially
12 prejudiced by that lack of knowledge.'

13
14 Further amend the bill by inserting before the statement of
15 fact the following:

16 'FISCAL NOTE

17
18 This bill permits the Superior Court to invalidate an
19 ordinance if an appeal to the court is made and certain
20 conditions have been met. The additional work load and
21 administrative costs associated with a minimal number of
22 additional cases filed in Superior Court as a result of appeals
23 will be absorbed within the budgeted resources of the Judicial
24 Department.'

25 STATEMENT OF FACT

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28 This amendment clarifies provisions in the bill relating to
29 a municipality's responsibilities of informing the public about
30 proposed zoning ordinances that would change the use of a zone by
31 either permitting industrial, commercial or retail development in
32 a zone where such uses were previously prohibited or by
33 prohibiting such uses in a zone where they were previously
34 permitted. The amendment adds provisions to the bill that would
35 permit the Superior Court to invalidate an ordinance if an
36 abutter to the new zone or a property owner within the zone
37 demonstrates to the court on appeal that the municipality failed
38 to send that person the notice required by law, that the person
39 had no knowledge of the proposed zoning change and that the
40 person was prejudiced by that lack of knowledge.
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Reported by the Committee on State and Local Government
Reproduced and distributed under the direction of the Clerk of the
House

(6/11/91)

(Filing No. H-644)